



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2020-04
The Prosecutor v. Pjetër Shala

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 20 October 2021

Language: English

Classification: Confidential

**Order Reclassifying the First Registry Report
on Victims' Applications for Participation**

Specialist Prosecutor

Jack Smith

Counsel for Pjetër Shala

Jean-Louis Gilissen

THE PRE-TRIAL JUDGE,¹ pursuant to Rules 80(1) and 113(1)-(3) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), hereby renders this order.

I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 19 June 2020, further to a decision by the Pre-Trial Judge,² the Specialist Prosecutor submitted the Confirmed Indictment.³
2. On 16 March 2021, further to a decision and an arrest warrant issued by the Pre-Trial Judge,⁴ Pjetër Shala (“Mr Shala”) was arrested in the Kingdom of Belgium (“Belgium”).⁵
3. On 15 April 2021, upon conclusion of the judicial proceedings in Belgium, Mr Shala was transferred to the detention facilities of the Specialist Chambers in the Hague, the Netherlands.⁶
4. On 1 September 2021, the Pre-Trial Judge issued the “Framework Decision on Victims’ Applications” (“Framework Decision”).⁷

¹ KSC-BC-2020-04, F00001, President, *Decision Assigning a Pre-Trial Judge*, 14 February 2020, public.

² KSC-BC-2020-04, F00007, Pre-Trial Judge, *Decision on the Confirmation of the Indictment against Pjetër Shala*, 12 June 2020, strictly confidential and *ex parte*. A confidential redacted version and a public redacted version were issued on 6 May 2021, F00007/CONF/RED and F00007/RED.

³ KSC-BC-2020-04, F00010, Specialist Prosecutor, *Submission of Confirmed Indictment*, 19 June 2020, public, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential. A confidential, lesser redacted version and a public, further redacted version of the Confirmed Indictment were submitted on 31 March 2021, F00016/A01 and F00016/A02. A further lesser redacted, confidential version of the Confirmed Indictment was submitted on 25 May 2021, F00038/A01.

⁴ KSC-BC-2020-04, F00008, Pre-Trial Judge, *Decision on Request for Arrest Warrant and Transfer Order*, 12 June 2020, confidential. A public redacted version was issued on 6 May 2021, F00008/RED. F00008/A01, Pre-Trial Judge, *Arrest Warrant for Mr Pjetër Shala*, 12 June 2020, strictly confidential and *ex parte*. A public redacted version was issued on 15 April 2021, F00008/A01/RED.

⁵ KSC-BC-2020-04, F00013, Registrar, *Notification of Arrest Pursuant to Rule 55(4)*, 16 March 2021, public.

⁶ KSC-BC-2020-04, F00019, Registrar, *Notification of Reception of Pjetër Shala in the Detention Facilities of the Specialist Chambers and Conditional Assignment of Counsel*, 15 April 2021, confidential, para. 2, with Annexes 1-2, confidential. A public redacted version was issued on 26 April 2021, F00019/RED.

⁷ KSC-BC-2020-04, F00064, Pre-Trial Judge, *Framework Decision on Victims’ Applications*, 1 September 2021, public.

5. On 1 October 2021, the Victims' Participation Office ("VPO") submitted the "First Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings" ("Report").⁸ The VPO submits, *inter alia*, that the Report has been filed as confidential and *ex parte*, but that it has no objection to the Report being reclassified as public as it contains no information identifying the applicant.⁹ It adds that the Annex contains identifying information and is, therefore, filed as strictly confidential and *ex parte*.¹⁰

II. APPLICABLE LAW

6. Pursuant to Rule 80(1) of the Rules, the Pre-Trial Judge may *proprio motu* order appropriate measures for the protection, safety, physical and psychological well-being, dignity and privacy of witnesses, victims participating in the proceedings and others at risk on account of testimony given by witnesses, provided that the measures are consistent with the rights of the Accused.

7. Pursuant to Rule 113(1)-(3) of the Rules, the Parties do not have access to the victims' application forms for participation and receive only a confidential report of the VPO submission, on the basis of which they can make submissions on legal grounds regarding admissibility and common representation.

III. DISCUSSION

8. Having reviewed the Report and its Annex, the Pre-Trial Judge is satisfied that, in the circumstances of the present proceedings, the Report may be shared with the Parties without redactions. The Annex shall remain classified as strictly confidential

⁸ KSC-BC-2020-04, F00085, Registrar, *First Registry Report to the Pre-Trial Judge on Victims' Application for Participation in the Proceedings*, 1 October 2021, confidential and *ex parte*, together with one Annex, strictly confidential and *ex parte*.

⁹ Report, para. 7.

¹⁰ Report, para. 8.

and *ex parte*. However, in view of the description of the alleged crimes and harm suffered by the applicant, and further noting that the applicant has requested that identifying information not be disclosed to the public,¹¹ the Pre-Trial Judge finds that, with a view to protecting the applicant's safety, well-being and privacy, the Report shall not be revealed to the public in its current form.

9. Accordingly, the Pre-Trial Judge orders the Registrar to reclassify the Report as confidential. Furthermore, the VPO shall redact any identifying information arising from the description of the alleged crimes and harm suffered throughout the Report and submit a public redacted version thereof.

10. Lastly, the Pre-Trial Judge recalls that, in accordance with the Framework Decision, the Parties shall file their legal submissions on the VPO recommendations regarding admissibility, common representation and protective measures within ten days of having been notified of the Report.¹²

¹¹ Report, paras 18-27, 34.

¹² Framework Decision, paras 58-60, 63(g).

IV. DISPOSITION

11. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- (a) **ORDERS** the Registrar to reclassify the Report as confidential; and
- (b) **ORDERS** the VPO to redact any identifying information arising from the applicant's description of the alleged crimes and harm suffered throughout the Report and submit a public redacted version of the Report by no later than **Friday, 29 October 2021**.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Wednesday, 20 October 2021

At the Hague, the Netherlands.